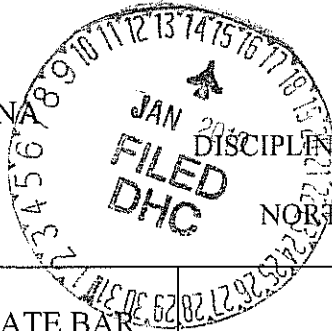


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 8

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ANNETTE H. EXUM., Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Annette H. Exum ("Defendant" or "Exum"), was admitted to the North Carolina State Bar on April 4, 2003, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

Upon information and belief Plaintiff alleges:

3. During all or a portion of the relevant periods referred to herein, Defendant was actively engaged in the private practice of law in the city of Raleigh, Wake County, North Carolina.

FIRST CLAIM FOR RELIEF

4. Paragraphs 1 – 3 are re-alleged and fully incorporated as if set forth herein.

5. In or around August 2005, Jeffrey Beckwith ("Beckwith") retained Defendant for representation in a discrimination case against his former employer.

6. On or about December 4, 2006, Beckwith filed a grievance against Defendant with the State Bar. This grievance was assigned file no. 06G1300.

7. On or about January 2, 2007, the State Bar sent a Letter of Notice regarding 06G1300 to Defendant via certified mail.

8. On or about February 9, 2007, the State Bar received Defendant's response to the Letter of Notice in grievance file no. 06G1300.

9. On or about March 5, 2008, the State Bar sent Defendant a follow-up letter requesting additional information concerning file no. 06G1300. Defendant was instructed to respond to this letter no later than March 12, 2008.

10. Defendant did not respond to the State Bar's inquiry by March 12, 2008.

11. On or about March 20, 2008, the State Bar sent Defendant a letter stating that her response to the March 5, 2008 letter had not been received.

12. Defendant did not respond to the follow-up letter within the required timeframe or thereafter.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) and 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to respond to the State Bar's supplemental inquiry in file no. 06G1300, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3).

SECOND CLAIM FOR RELIEF

13. Paragraphs 1 – 12 are re-alleged and fully incorporated as if set forth herein.

14. On or about July 20, 2006, Nadine Mann ("Mann") retained Defendant for representation in a lawsuit against the U.S. Postal Service before the Equal Employment Opportunity Commission ("EEOC").

15. On or about August 7, 2006, the Charlotte District Office of the EEOC issued an Acknowledgement and Order in Mann's case scheduling the pre-hearing conference for November 15, 2006 and setting the due date for the pre-hearing report for November 14, 2006.

16. On or about November 13, 2006, the presiding Administrative Judge ("AJ") re-scheduled the pre-hearing conference for November 20, 2006 due to apparent confusion between the parties regarding discovery.

17. On or about November 14, 2006, Defendant requested postponement of the November 20 pre-hearing conference due to medical reasons. On November 20, 2006,

the presiding AJ re-scheduled the pre-hearing conference for December 13, 2006 and set the due date for the pre-hearing report for December 11, 2006.

18. On or about December 4, 2006, Defendant requested a 30-day continuance for filing the pre-hearing report and holding the pre-hearing conference.

19. On or about December 5, 2006, the presiding AJ left messages with Defendant making inquiry and requesting a prompt response regarding the request for a continuance.

20. Defendant did not respond to the presiding AJ's inquiries.

21. Subsequently, the presiding AJ re-scheduled the pre-hearing conference for January 10, 2007, with the pre-hearing report due by January 9, 2007.

22. Defendant did not submit the pre-hearing report until January 10, 2007.

23. Defendant's pre-hearing report was incoherent and unsatisfactory.

24. During a conversation with the presiding AJ on January 10, 2007, Defendant explained that the delay in submitting the report was due, in part, to this case being Defendant's first complaint before the EEOC.

25. Defendant did not possess the legal knowledge required to competently handle the representation.

26. Defendant sought co-counsel for assistance in Mann's case, but did not seek assistance from co-counsel until January 9, 2007.

27. Defendant explained to the presiding AJ that Defendant's recent medical issues were a significant reason for the numerous delays and Defendant's requests for extensions. The presiding AJ then requested Defendant provide medical documentation evidencing the medical issues Defendant cited.

28. Defendant did not provide the medical documentation to the presiding AJ as requested.

29. As a result of Defendant's conduct, the presiding AJ sanctioned Mann by dismissing her request for a hearing by order dated January 10, 2007.

30. On or about February 27, 2007, Mann filed with the State Bar a Petition for Resolution of Disputed Fee ("fee dispute") against Defendant. The fee dispute was assigned file no. 07FD0104.

31. Defendant failed to timely and substantively respond to the fee dispute and correspondence from the State Bar.

32. The State Bar subsequently opened a grievance file against Defendant, grievance file no. 07G0386, based upon her failure to participate in good faith in the fee dispute process as well as her conduct in representing Mann.

33. On or about August 15, 2007, the State Bar sent a Letter of Notice regarding 07G0386 to Defendant via certified mail.

34. On October 3, 2007, the State Bar received Defendant's response to the Letter of Notice in grievance file no. 07G0386.

35. On or about March 5, 2008, the State Bar sent Defendant a follow-up letter requesting additional information concerning file no. 07G0386. Defendant was instructed to respond to this letter no later than March 12, 2008.

36. Defendant did not respond to the State Bar's inquiry by March 12, 2008.

37. On or about March 20, 2008, the State Bar sent Defendant a letter stating that her response to the March 5, 2008 letter had not been received.

38. Defendant did not respond to the follow-up letter within the required timeframe or thereafter.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) and 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By causing unnecessary delays and by providing an insufficient pre-hearing report, Defendant undertook a matter in which she knew or should have known that she did not possess the required legal knowledge reasonably necessary for the representation, in violation of Rule 1.1;
- (b) By failing to timely file the pre-hearing report and respond to numerous requests from the presiding Administrative Judge, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (c) By failing to respond to fee dispute petition 07FD0104, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2); and
- (d) By failing to respond to the State Bar's supplemental inquiry in file no. 07G0386, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3).

THIRD CLAIM FOR RELIEF

39. Paragraphs 1 – 38 are re-alleged and fully incorporated as if set forth herein.

40. In 2006, Ruth A. Powell ("Powell") retained Defendant for representation in two EEOC matters against the U.S. Postal Service. Defendant charged Powell \$10,000.00 for representation in these two matters.

41. On or about August 7, 2006, the Charlotte District Office of the EEOC issued an Acknowledgement and Order in Powell's case scheduling the pre-hearing conference for November 15, 2006 and setting the due date for the pre-hearing report for November 14, 2006.

42. On or about October 18, 2006, the Postal Service filed a Motion to Compel Discovery due to Defendant's failure to respond to opposing counsel's discovery requests. Defendant responded to the Postal Service's motion by filing a motion for a continuance and extending the discovery period.

43. On or about November 13, 2006, the presiding Administrative Judge ("AJ") re-scheduled the pre-hearing conference for November 20, 2006 due to apparent confusion between the parties regarding discovery.

44. Defendant subsequently requested postponement of the pre-hearing conference due to medical reasons.

45. On or about November 20, 2006, the presiding AJ instructed Defendant to provide medical documentation regarding her incapacitation. The presiding AJ also re-scheduled the pre-hearing conference for December 13, 2006.

46. Defendant did not provide medical documentation regarding her incapacitation as instructed by the presiding AJ.

47. On or about December 4, 2006, Defendant requested a 30-day continuance for filing the pre-hearing report and holding the pre-hearing conference.

48. On or about December 5, 2006, the presiding AJ left messages with Defendant making inquiry and requesting a prompt response regarding the request for a continuance.

49. Defendant did not respond to the presiding AJ's inquiries.

50. Subsequently, the presiding AJ re-scheduled the pre-hearing conference for February 15, 2007, with the pre-hearing report due by February 12, 2007.

51. On February 12, 2007, Defendant submitted the pre-hearing report by facsimile. On February 15, 2007, Defendant filed an amended pre-hearing report by facsimile.

52. During the pre-hearing conference call, opposing counsel questioned the inclusion of 47 exhibits referenced in Defendant's pre-hearing report that had not been provided during discovery.

53. After speaking with the presiding AJ, Defendant withdrew Powell's request for hearing.

54. Defendant did not possess the legal knowledge required to competently handle the representation. Defendant also did not associate herself with another lawyer who was competent to handle the matter.

55. By letter dated February 22, 2007, Powell requested a full refund of her paid \$10,000 legal fee.

56. Defendant refused to refund Powell's legal fee.

57. On or about May 7, 2007, Powell filed a grievance against Defendant with the State Bar. The grievance was assigned file no. 07G0493.

58. On or about August 15, 2007, the State Bar sent a Letter of Notice in grievance file no. 07G0493 to Defendant via certified mail.

59. On or about October 3, 2007, the State Bar received Defendant's response to the Letter of Notice in grievance file no. 07G0493.

60. On or about March 5, 2008, the State Bar sent Defendant a follow-up letter requesting additional information concerning file no. 07G0493. Defendant was instructed to respond to this letter no later than March 12, 2008.

61. Defendant did not respond to the State Bar's inquiry by March 12, 2008.

62. On or about March 20, 2008, the State Bar sent Defendant a letter stating that her response to the March 5, 2008 letter had not been received.

63. Defendant did not respond to the follow-up letter within the required timeframe or thereafter.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) and 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By causing unnecessary delays and by failing to properly submit evidence on behalf of her client, Defendant undertook a matter in which she knew or should have known that she did not possess the required legal knowledge reasonably necessary for the representation, in violation of Rule 1.1;
- (b) By failing to respond to opposing counsel's discovery requests and failing to provide requested information and documentation as instructed by the presiding Administrative Judge, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3; and

- (c) By failing to respond to the State Bar's supplemental inquiry in file no. 07G0493, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3).

FOURTH CLAIM FOR RELIEF

64. Paragraphs 1 – 63 are re-alleged and fully incorporated as if set forth herein.
65. In or about July 2003, Joyce Ashby ("Ashby") retained Defendant to handle probate-related matters for the estate of Ashby's aunt, Georgia McPherson ("estate"). Defendant charged Ashby \$5,000.00 for representation in the estate matter.
66. By letter dated March 8, 2004, Ashby expressed dissatisfaction with Defendant's services and failure to respond to numerous telephone messages. Ashby also requested copies of all documents filed, developed, or received regarding her case.
67. Subsequently, after not receiving the information requested of Defendant, Ashby terminated Defendant's services.
68. On or about October 30, 2006, Ashby filed with the State Bar a Petition of Resolution of Disputed Fee ("fee dispute") against Defendant. The fee dispute was assigned file no. 06FD0615.
69. On or about December 11, 2006, Defendant and Ashby entered into a Mediation Settlement Agreement concerning file no. 06FD0615. The terms of the agreement were that Ashby agreed to withdraw the fee dispute and Defendant agreed to provide an executive summary of legal services provided to Ashby relating to the estate.
70. Over a period of several months, Ashby attempted to contact Defendant concerning the status of the estate documentation. On the few occasions Ashby spoke with Defendant, Defendant stated that the documents would be mailed the following week.
71. As of June 2007, Defendant had not provided Ashby with any written documentation per the fee dispute agreement.
72. On or about June 13, 2007, Ashby filed a grievance against Defendant with the State Bar. The grievance was assigned file no. 07G0639.
73. On or about August 15, 2007, the State Bar sent a Letter of Notice in grievance file no. 07G0639 to Defendant via certified mail.
74. On October 3, 2007, the State Bar received Defendant's response to the Letter of Notice in grievance file no. 07G0639.
75. On or about March 5, 2008, the State Bar sent Defendant a follow-up letter requesting additional information concerning file no. 07G0639. Defendant was instructed to respond to this letter no later than March 12, 2008.

76. Defendant did not respond to the State Bar's inquiry by March 12, 2008.

77. On or about March 20, 2008, the State Bar sent Defendant a letter stating that her response to the March 5, 2008 letter had not been received.

78. Defendant did not respond to the follow-up letter within the required timeframe or thereafter.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) and 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to provide an accounting of legal services to Ashby as agreed pursuant to the mediation settlement agreement, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2); and
- (b) By failing to respond to the State Bar's supplemental inquiry in file no. 07G0639, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3).

FIFTH CLAIM FOR RELIEF

79. Paragraphs 1 – 78 are re-alleged and fully incorporated as if set forth herein.

80. On or around November 15, 2004, Alan and Donna Boykin ("the Boykins") retained Defendant for representation in a matter involving Wilson County Schools.

81. On or about June 12, 2007, the Boykins filed a grievance against Defendant with the State Bar. The grievance was assigned file no. 07G0640.

82. On or about August 15, 2007, the State Bar sent a Letter of Notice in grievance file no. 07G0640 to Defendant via certified mail.

83. On October 3, 2007, the State Bar received Defendant's response to the Letter of Notice in grievance file no. 07G0640.

84. On or about March 5, 2008, the State Bar sent Defendant a follow-up letter requesting additional information concerning file no. 07G0640. Defendant was instructed to respond to this letter no later than March 12, 2008.

85. Defendant did not respond to the State Bar's inquiry by March 12, 2008.

86. On or about March 20, 2008, the State Bar sent Defendant a letter stating that her response to the March 5, 2008 letter had not been received.

87. Defendant did not respond to the follow-up letter within the required timeframe or thereafter.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) and 84-28(b)(3) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to respond to the State Bar's supplemental inquiry in file no. 07G0640, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3).

SIXTH CLAIM FOR RELIEF

88. Paragraphs 1 – 87 are re-alleged and fully incorporated as if set forth herein.

89. On or about August 24, 2007, Helen Stephens ("Stephens") retained Defendant for representation before the North Carolina Employment Security Commission ("ESC") as well as the EEOC. Defendant charged Stephens \$5,000.00 for the representation.

90. By letter dated December 13, 2007, Stephens terminated the representation based upon her dissatisfaction with Defendant's services to that point. Stephens also requested a refund of at least half the paid \$5,000.00 legal fee.

91. Defendant did not refund any portion of Stephens's paid legal fee as requested.

92. On or about January 4, 2008, Stephens filed with the State Bar a Petition of Resolution of Disputed Fee ("fee dispute") against Defendant. The fee dispute was assigned file no. 08FD0009.

93. A mediation of the fee dispute in file no. 08FD0009 was scheduled for March 12, 2008.

94. On the morning of March 12, 2008, Defendant contacted the mediator and stated she had been in an automobile accident and needed to re-schedule the mediation for another day. The mediator agreed to the request and re-scheduled the mediation for April 16, 2008.

95. Defendant did not appear at the April 16, 2008 mediation as instructed.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to appear at the April 16, 2008 mediation, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2).

SEVENTH CLAIM FOR RELIEF

96. Paragraphs 1 – 95 are re-alleged and fully incorporated as if set forth herein.

97. In or around October 2007, Beverly Hill-Jones ("Jones") retained Defendant for representation in a domestic matter. Defendant charged Jones \$5,000.00 for the representation.

98. In or around November 2007, Jones retained Defendant for representation in a property damage claim and an employment matter. Defendant charged Jones \$2,500.00 for each matter.

99. As of April 2008, Defendant had not provided a completed separation agreement.

100. At the time Jones retained Defendant for representation in the employment matter, Defendant knew the statute of limitations had run on Jones's potential claim. Defendant advised Jones to pursue alternative theories to recover damages.

101. Defendant's research into Jones's employment matter led Defendant to conclude that Jones could not recover on any claim relating to the matter.

102. Throughout the course of the representation, Defendant failed to respond to numerous telephone messages left by Jones requesting an update on the status of her cases.

103. On or about May 5, 2008, Jones terminated the representation based upon her dissatisfaction with Defendant's services up to that point. Jones also requested a partial refund of her paid legal fees.

104. Defendant did not refund any portion of Jones's paid legal fees.

105. On or about May 7, 2008, Jones filed with the State Bar a Petition of Resolution of Disputed Fee ("fee dispute") against Defendant. The fee dispute was assigned file no. 08FD0279.

106. By letter dated August 11, 2008, a mediator with the State Bar recommended Defendant refund a portion of Jones's paid legal fee. Defendant was instructed to respond to the August 11 letter by August 18, 2008.

107. Defendant did not timely respond to the mediator's August 11, 2008 letter as instructed.

108. In or around September 2008, Defendant contacted the mediator at the State Bar and requested the opportunity to provide additional information demonstrating time spent working on Jones's cases that would reduce the recommended refund. The mediator agreed to consider this information and instructed Defendant to submit this information.

109. Defendant did not provide the mediator with the additional information.

110. Defendant did not refund any portion of Jones's legal fee pursuant to the mediator's recommendation.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to draft a completed separation agreement in a reasonable amount of time, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (b) By failing to respond to Jones's numerous inquiries, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4); and
- (c) By failing to provide a complete copy of all relevant information relating to the fee dispute in file no. 08FD0279, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2).

EIGHTH CLAIM FOR RELIEF

111. Paragraphs 1 – 110 are re-alleged and fully incorporated as if set forth herein.

112. In or around April 2008, Lillie McCullough ("McCullough") retained Defendant for representation in a domestic matter. Defendant charged McCullough \$750.00 for the representation.

113. On or about July 30, 2008, McCullough filed with the State Bar a Petition of Resolution of Disputed Fee ("fee dispute") against Defendant. The fee dispute was assigned file no. 08FD0453.

114. By letter dated October 10, 2008, a mediator with the State Bar recommended Defendant refund a portion of Jones's paid legal fee and requested a response to the recommendation from Defendant by October 20, 2008.

115. Defendant did not respond to the mediator's October 10, 2008 letter.

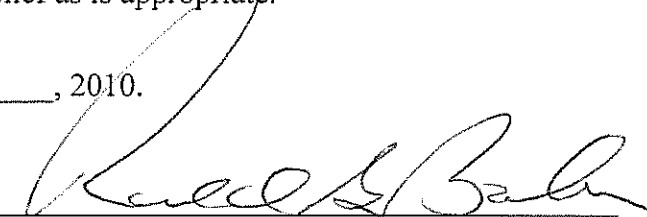
THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to respond to the mediator's October 10, 2008 letter regarding file no. 08FD0453, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2).

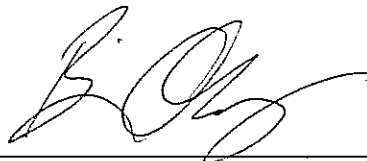
WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against defendant in accordance with N.C. Gen. Stat. § 84-28(c) and 27 N.C.A.C. 1B § .0114 as the evidence on hearing may warrant;
- (2) Defendant be taxed with all costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

This the 13 day of January, 2010.



Ronald G. Baker, Sr., Chair
Grievance Committee



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